**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

COMPANY PETITION NO.542 OF 1998

IIT Capital Services Ltd. ..Petitioners.

V/s.

Vizar Agrochemicals Ltd. ..Respondents.

Ms.Deepa Mani i/b S.K.Srivastava & Co.for Petitioner.
for Defendant.

**CORAM: A.M.KHANWILKAR,J**

**DATE : JUNE 21, 2005.**

**P.C. :**

1. Heard counsel for the parties.

2. This petition is filed under section 433 and 434 of the Companies Act, praying for winding up of respondent company on the assertion that the respondent company was liable to pay aggregate sum of Rs.46,63,020.00, on the date of filing of this petition, the amount due and payable under the Bills of Exchange and interest accrued thereon from time to time.

3. The respondent company has acknowledged the liability to pay the amount demanded by the petitioner, as can be discerned from the letters issued under signature of directors of the respondent

company in May, 1997. It is seen from the record that respondent company has issued postdated cheques against bills of exchange, which however, have been dishonoured. It is stated that proceedings under section 138 of the N.I.Act are pending against the respondent company, in respect of the said cheques.

4. Be that as it may, from the record produced, alongwith the petition, it is clear that respondent company has acknowledged its liability to pay the amount, demanded by the petitioner. As the respondent company failed to honour its commitment, eventually, the petitioner issued statutory notice to the respondent company and its officer on 2nd December, 1997. Although the said notice was duly served on the respondent company and its officer, no reply was sent on behalf of the company, nor any payment was offered to the petitioner.

5. It is in this background, the petitioner had instituted present petition on 15th June,1998. Although notice of this petition was duly served on respondent company, no reply was filed on behalf of the respondent company. This petition was admitted by order dated 16th December, 1998 and admission has been duly advertised. Even thereafter, the

respondent has neither filed any reply in the present petition nor offered the outstanding amount to the petitioner. They have acknowledged its liability in the letters issued by it, which are appended to the petition. There is therefore, reason to accept the submission of the petitioner that legal presumption of the respondent company is unable to pay its debt is undischarged, for which reason the petition ought to succeed in terms of prayer clause (a).

6. Accordingly, petition is made absolute in terms of prayer clause (a), with direction to the Official Liquidator to take possession of the assets and properties of the respondent company and proceed in accordance with the law.

7. Ordered accordingly.

8. Petition disposed of accordingly.